



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3196/2-3

RAC:kjf

Tues AM

RMR

2003 BILL

Regen

1 AN ACT *to amend* 20.425 (1) (i), 111.70 (1) (a), 111.70 (1) (dm), 111.70 (4) (cm) 5s.,
2 111.70 (4) (cm) 6. am., 111.70 (4) (cm) 6. d., 111.70 (4) (cm) 7., 111.70 (4) (cm) 7g.,
3 111.70 (4) (cm) 7r. (intro.), 111.70 (4) (cm) 7r. d., 111.70 (4) (cm) 7r. e., 111.70 (4)
4 (cm) 7r. f., 111.70 (4) (m) (title), 111.71 (5), 111.77 (3), 111.77 (4) (a), 111.77 (4)
5 (b), 111.77 (6) (d) (intro.), 111.77 (6) (d) 1. and 111.77 (6) (d) 2.; and *to create*
6 111.70 (4) (cm) 7t., 111.70 (4) (nm) and 111.77 (4m) of the statutes; **relating to:**
7 employment relations under the Municipal Employment Relations Act.

Analysis by the Legislative Reference Bureau

The bill does all of the following:

1. Under current law, in local government employment other than law enforcement and fire fighting employment, if a dispute relating to the terms of a proposed collective bargaining agreement has not been settled after a reasonable period of negotiation and after mediation by the Wisconsin Employment Relations Commission (WERC), either party, or the parties jointly, may petition WERC to initiate compulsory, final, and binding arbitration with respect to any dispute relating to wages, hours, and conditions of employment. If WERC determines, after investigation, that an impasse exists and that arbitration is required, WERC must submit to the parties a list of seven arbitrators, from which the parties alternately strike names until one arbitrator is left. As an alternative to a single arbitrator,

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WERC may provide for an arbitration panel that consists of one person selected by each party and one person selected by WERC. As a further alternative, WERC may also provide a process that allows for a random selection of a single arbitrator from a list of seven names submitted by WERC. Under current law, an arbitrator or arbitration panel must adopt the final offer of one of the parties on all disputed issues, which is then incorporated into the collective bargaining agreement.

The bill eliminates the option of an arbitration panel and, instead, provides that the only option available to the parties is a random selection process resulting in a single arbitrator. Under this process, WERC submits a list of seven arbitrators to the parties, the parties each strike ~~one name~~^{two names}, and WERC randomly chooses the arbitrator from among the remaining ~~five names~~^{three}.

2. Under current law, in local government law enforcement and fire fighting employment (other than law enforcement in the City of Milwaukee), if WERC determines that an impasse exists between the parties WERC must issue an order requiring arbitration. In connection with this order, WERC must submit to the parties a list of five arbitrators from which the parties can alternately strike names until a single name is left and then that person is appointed as the arbitrator by WERC. The bill changes the selection process to require that WERC submit a list of seven arbitrators to the parties from which list each party strikes ~~one name~~^{two names}. From the remaining ~~five~~^{three} names, WERC must randomly select a name and appoint that person as the arbitrator.

3. Current law provides that in reaching a decision, involving local government employment other than law enforcement and fire fighting employment, the arbitrator must give weight to many factors, including the lawful authority of the municipal employer, the stipulations of the parties, the interest and welfare of the public, and the financial ability of the unit of government to meet the costs of the proposed agreement, comparison of wages, hours, and conditions of employment with those of other public and private sector employees in the same and comparable communities, the cost of living, the overall compensation and benefits that the employees currently receive, and other similar factors. But, under current law, the arbitrator is required to give greater weight to economic conditions in the jurisdiction of the employer and the greatest weight to any state law or directive that places expenditure or revenue limitations on an employer.

The bill ~~requires that~~^{gives} the arbitrator ~~must give~~ an accounting in writing of the consideration of each of the factors in reaching his or her decision. In addition, the bill changes the factors to require that the arbitrator consider the wages, hours, and conditions of employment of public and private sector employment in the same community and not also in comparable communities.

4. Current law in local government law enforcement and fire fighting employment (other than law enforcement in the City of Milwaukee) requires that the arbitrator, in reaching a decision, must consider the wages, hours, and conditions of employment of public and private sector employment in comparable communities. The bill requires the arbitrator only to consider such employment in the same community.

provided that no arbitrator's decision may take effect unless

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5. The bill provides that in all local government employment (other than law enforcement in the City of Milwaukee) the arbitrator may not include in any arbitration decision any item that would require the retroactive application of a salary adjustment for any period occurring before the date that the arbitrator issues the arbitration decision. This requirement will prevent the awarding of any pay adjustment commonly known as "back pay" under an arbitration decision.

6. Under the Municipal Employment Relations Act, municipal employers and employees must bargain all issues related to wages, hours, and conditions of employment. The bill prohibits bargaining on any municipal employer's decision to enter into contracts with persons who are not municipal employees for the performance of services for the municipality, or the impact of any such decision on the wages, hours, and conditions of employment of the municipal employees who would otherwise perform those services.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.425 (1) (i) of the statutes, as affected by 2003 Wisconsin Act 33, is amended to read:

20.425 (1) (i) *Fees, collective bargaining training, and publications.* The amounts in the schedule for the performance of fact-finding, mediation and arbitration functions, for the provision of copies of transcripts, for the cost of operating training programs under ss. 111.09 (3), 111.71 (5), and 111.94 (3), and for the preparation of publications, transcripts, reports and other copied material. All moneys received under ss. 111.09 (1) and (2), 111.71 (1) and (2) and 111.94 (1) and (2), all moneys received from arbitrators and arbitration panel members, and individuals who are interested in serving in such positions, and from individuals and organizations who participate in other collective bargaining training programs conducted by the commission, and all moneys received from the sale of publications, transcripts, reports, and other copied material shall be credited to this appropriation account.

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1 **SECTION 2.** 111.70 (1) (a) of the statutes is amended to read:

2 111.70 (1) (a) “Collective bargaining” means the performance of the mutual
3 obligation of a municipal employer, through its officers and agents, and the
4 representative of its municipal employees in a collective bargaining unit, to meet and
5 confer at reasonable times, in good faith, with the intention of reaching an
6 agreement, or to resolve questions arising under such an agreement, with respect to
7 wages, hours and conditions of employment, and with respect to a requirement of the
8 municipal employer for a municipal employee to perform law enforcement and fire
9 fighting services under s. 61.66, except as provided in sub. (4) (m) and (nm) and s.
10 40.81 (3) and except that a municipal employer shall not meet and confer with respect
11 to any proposal to diminish or abridge the rights guaranteed to municipal employees
12 under ch. 164. The duty to bargain, however, does not compel either party to agree
13 to a proposal or require the making of a concession. Collective bargaining includes
14 the reduction of any agreement reached to a written and signed document. The
15 municipal employer shall not be required to bargain on subjects reserved to
16 management and direction of the governmental unit except insofar as the manner
17 of exercise of such functions affects the wages, hours and conditions of employment
18 of the municipal employees in a collective bargaining unit. In creating this
19 subchapter the legislature recognizes that the municipal employer must exercise its
20 powers and responsibilities to act for the government and good order of the
21 jurisdiction which it serves, its commercial benefit and the health, safety and welfare
22 of the public to assure orderly operations and functions within its jurisdiction,
23 subject to those rights secured to municipal employees by the constitutions of this
24 state and of the United States and by this subchapter.

25 **SECTION 3.** 111.70 (1) (dm) of the statutes is amended to read:

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1 111.70 (1) (dm) “Economic issue” means salaries, overtime pay, sick leave,
2 payments in lieu of sick leave usage, vacations, clothing allowances in excess of the
3 actual cost of clothing, length-of-service credit, continuing education credit, shift
4 premium pay, longevity pay, extra duty pay, performance bonuses, health insurance,
5 life insurance, dental insurance, disability insurance, vision insurance, long-term
6 care insurance, worker’s compensation and unemployment insurance, social
7 security benefits, vacation pay, holiday pay, lead worker pay, temporary assignment
8 pay, retirement contributions, supplemental retirement benefits, severance or other
9 separation pay, hazardous duty pay, certification or license payment, and limitations
10 on layoffs that create a new or increased financial liability on the employer and
11 ~~contracting or subcontracting of work that would otherwise be performed by~~
12 ~~municipal employees in the collective bargaining unit with which there is a labor~~
13 dispute.

14 SECTION 4. 111.70 (4) (cm) [✓]5s. of the statutes is amended to read:

15 111.70 (4) (cm) 5s. ‘Issues subject to arbitration.’ In a collective bargaining unit
16 consisting of school district professional employees, the municipal employer or the
17 labor organization may petition the commission to determine whether the municipal
18 employer has submitted a qualified economic offer. The commission shall appoint an
19 investigator for that purpose. If the investigator finds that the municipal employer
20 has submitted a qualified economic offer, the investigator shall determine whether
21 a deadlock exists between the parties with respect to all economic issues. If the
22 municipal employer submits a qualified economic offer applicable to any period
23 beginning on or after July 1, 1993, no economic issues are subject to interest
24 arbitration under subd. 6. for that period, ~~except that only the impact of contracting~~
25 ~~out or subcontracting work that would otherwise be performed by municipal~~

BILL**SECTION 4**

~~employees in the collective bargaining unit is subject to interest arbitration under~~
subd. 6. In such a collective bargaining unit, economic issues concerning the wages,
hours or conditions of employment of the school district professional employees in the
unit for any period prior to July 1, 1993, are subject to interest arbitration under
subd. 6. for that period. In such a collective bargaining unit, noneconomic issues
applicable to any period on or after July 1, 1993, are subject to interest arbitration
after the parties have reached agreement and stipulate to agreement on all economic
issues concerning the wages, hours or conditions of employment of the school district
professional employees in the unit for that period. In such a collective bargaining
unit, if the commission's investigator finds that the municipal employer has
submitted a qualified economic offer and that a deadlock exists between the parties
with respect to all economic issues, the municipal employer may implement the
qualified economic offer. On the 90th day prior to expiration of the period included
within the qualified economic offer, if no agreement exists on that day, the parties are
deemed to have stipulated to the inclusion in a new or revised collective bargaining
agreement of all provisions of any predecessor collective bargaining agreement
concerning economic issues, or of all provisions of any existing collective bargaining
agreement concerning economic issues if the parties have reopened negotiations
under an existing agreement, as modified by the terms of the qualified economic offer
and as otherwise modified by the parties. In such a collective bargaining unit, on and
after that 90th day, a municipal employer that refuses to bargain collectively with
respect to the terms of that stipulation, applicable to the 90-day period prior to
expiration of the period included within the qualified economic offer, does not violate
sub. (3) (a) 4. Any such unilateral implementation after August 11, 1993, during the
90-day period prior to expiration of the period included within a qualified economic

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1 offer, operates as a full, final and complete settlement of all economic issues between
2 the parties for the period included within the qualified economic offer. The failure
3 of a labor organization to recognize the validity of such a lawful qualified economic
4 offer does not affect the obligation of the municipal employer to submit economic
5 issues to arbitration under subd. 6.

6 **SECTION 5.** 111.70 (4) (cm) 6. am. of the statutes is amended to read:

7 111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the
8 commission shall make an investigation, with or without a formal hearing, to
9 determine whether arbitration should be commenced. If in determining whether an
10 impasse exists the commission finds that the procedures set forth in this paragraph
11 have not been complied with and such compliance would tend to result in a
12 settlement, it may order such compliance before ordering arbitration. The validity
13 of any arbitration award or collective bargaining agreement shall not be affected by
14 failure to comply with such procedures. Prior to the close of the investigation each
15 party shall submit in writing to the commission its single final offer containing its
16 final proposals on all issues in dispute that are subject to interest arbitration under
17 this subdivision or under subd. 5s. in collective bargaining units to which subd. 5s.
18 applies. If a party fails to submit a single, ultimate final offer, the commission shall
19 close the investigation based on the last written position of the party. The municipal
20 employer may not submit a qualified economic offer under subd. 5s. after the close
21 of the investigation. Such final offers may include only mandatory subjects of
22 bargaining, except that a permissive subject of bargaining may be included by a
23 party if the other party does not object and shall then be treated as a mandatory
24 subject. No later than such time, the parties shall also submit to the commission a
25 stipulation, in writing, with respect to all matters which are agreed upon for

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1 inclusion in the new or amended collective bargaining agreement. The commission,
2 after receiving a report from its investigator and determining that arbitration should
3 be commenced, shall issue an order requiring arbitration and immediately submit
4 to the parties a list of 7 arbitrators. ~~Upon receipt of such list, the parties shall~~
5 ~~alternately strike names until a single name is left, who shall be appointed as~~
6 ~~arbitrator. The petitioning party shall notify the commission in writing of the~~
7 ~~identity of the arbitrator selected. Upon receipt of such notice, the commission shall~~
8 ~~formally appoint the arbitrator and submit to him or her the final offers of the~~
9 ~~parties. The final offers shall be considered public documents and shall be available~~
10 ~~from the commission. In lieu of a single arbitrator and upon request of both parties,~~
11 ~~the commission shall appoint a tripartite arbitration panel consisting of one member~~
12 ~~selected by each of the parties and a neutral person designated by the commission~~
13 ~~who shall serve as a chairperson. An arbitration panel has the same powers and~~
14 ~~duties as provided in this section for any other appointed arbitrator, and all~~
15 ~~arbitration decisions by such panel shall be determined by majority vote. In lieu of~~
16 ~~selection of the arbitrator by the parties and upon request of both parties, the~~
17 ~~commission shall establish a procedure for randomly selecting names of arbitrators.~~
18 ~~Under the procedure, the commission shall submit a list of 7 arbitrators to the~~
19 ~~parties. Each party shall strike one name~~ ^{2 NAMES} ~~from the list. From the remaining 5~~ 3
20 names, the commission shall randomly appoint an arbitrator. Unless both parties
21 to an arbitration proceeding otherwise agree in writing, every individual whose
22 name is submitted by the commission for appointment as an arbitrator shall be a
23 resident of this state at the time of submission and ~~every individual who is~~
24 ~~designated as an arbitration panel chairperson shall be a resident of this state at the~~
25 ~~time of designation.~~

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1 **SECTION 6.** 111.70 (4) (cm) 6. d. of the statutes is amended to read:

2 111.70 (4) (cm) 6. d. Before issuing his or her arbitration decision, the arbitrator
3 shall, on his or her own motion or at the request of either party, conduct a meeting
4 open to the public for the purpose of providing the opportunity to both parties to
5 explain or present supporting arguments for their complete offer on all matters to
6 be covered by the proposed agreement. The arbitrator shall adopt without further
7 modification the final offer of one of the parties on all disputed issues submitted
8 under subd. 6. am., including any prior modifications of such offer mutually agreed
9 upon by the parties under subd. 6. b., except that the arbitrator shall not include in
10 the arbitration decision those items that the commission determines not to be
11 mandatory subjects of bargaining and; those items which that have not been treated
12 as mandatory subjects by the parties, and including any prior modifications of such
13 offer mutually agreed upon by the parties under subd. 6. b., which; and, any item that
14 would require the retroactive application of a salary adjustment for any period
15 occurring before the date that the arbitrator issues the arbitration decision. The
16 arbitration decision shall be final and binding on both parties and shall be
17 incorporated into a written collective bargaining agreement. The arbitrator shall
18 serve a copy of his or her decision on both parties and the commission.

19 **SECTION 7.** 111.70 (4) (cm) 7. of the statutes is amended to read:

20 111.70 (4) (cm) 7. 'Factor given greatest weight.' In making any decision under
21 the arbitration procedures authorized by this paragraph, the arbitrator or
22 arbitration panel shall consider and shall give the greatest weight to any state law
23 or directive lawfully issued by a state legislative or administrative officer, body or
24 agency which places limitations on expenditures that may be made or revenues that
25 may be collected by a municipal employer. ~~The arbitrator or arbitration panel shall~~

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1 ~~give an accounting of the consideration of this factor in the arbitrator's or panel's~~
2 ~~decision.~~

3 **SECTION 8.** 111.70 (4) (cm) 7g. of the statutes is amended to read:

4 111.70 (4) (cm) 7g. 'Factor given greater weight.' In making any decision under
5 the arbitration procedures authorized by this paragraph, the arbitrator or
6 arbitration panel shall consider and shall give greater weight to economic conditions
7 in the jurisdiction of the municipal employer than to any of the factors specified in
8 subd. 7r.

9 **SECTION 9.** 111.70 (4) (cm) 7r. (intro.) of the statutes is amended to read:

10 111.70 (4) (cm) 7r. 'Other factors considered.' (intro.) In making any decision
11 under the arbitration procedures authorized by this paragraph, the arbitrator or
12 arbitration panel shall also give weight to the following factors:

13 **SECTION 10.** 111.70 (4) (cm) 7r. d. of the statutes is amended to read:

14 111.70 (4) (cm) 7r. d. Comparison of wages, hours, and conditions of
15 employment of the municipal employees involved in the arbitration proceedings with
16 the wages, hours, and conditions of employment of other employees performing
17 similar services in the same community.

18 **SECTION 11.** 111.70 (4) (cm) 7r. e. of the statutes is amended to read:

19 111.70 (4) (cm) 7r. e. Comparison of the wages, hours, and conditions of
20 employment of the municipal employees involved in the arbitration proceedings with
21 the wages, hours, and conditions of employment of other employees generally in
22 public employment in the same community ~~and in comparable communities~~.

23 **SECTION 12.** 111.70 (4) (cm) 7r. f. of the statutes is amended to read:

24 111.70 (4) (cm) 7r. f. Comparison of the wages, hours, and conditions of
25 employment of the municipal employees involved in the arbitration proceedings with

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the wages, hours, and conditions of employment of other employees in private employment in the same community ~~and in comparable communities.~~

SECTION 13. 111.70 (4) (cm) 7t. of the statutes is created to read:

111.70 (4) (cm) 7t. 'Consideration of factors in arbitration decision.' ^{making} ~~any~~ ^{no} ^{made by an arbitrator} decision ^{gives} under the arbitration procedures authorized by this paragraph, the arbitrator ~~shall give~~ an accounting in writing of the consideration of the factors specified in subds. 7. to 7r. in the decision. ^{may take effect unless}

SECTION 14. 111.70 (4) (m) (title) of the statutes is amended to read:

111.70 (4) (m) (title) *Prohibited subjects of bargaining; school districts.*

SECTION 15. 111.70 (4) (nm) of the statutes is created to read:

111.70 (4) (nm) *Prohibited subjects of bargaining; all municipal employers.* A municipal employer is prohibited from bargaining collectively with respect to the employer's decision to enter into contracts with persons who are not municipal employees for the performance of services for the municipality, or the impact of any such decision on the wages, hours, and conditions of employment of the municipal employees who would otherwise perform those services.

SECTION 16. 111.71 (5) of the statutes is amended to read:

111.71 (5) The commission shall, on a regular basis, provide training programs to prepare individuals for service as arbitrators ~~or arbitration panel members~~ under s. 111.70 (4) (cm). The commission shall engage in appropriate promotional and recruitment efforts to encourage participation in the training programs by individuals throughout the state, including at least 10 residents of each congressional district. The commission may also provide training programs to individuals and organizations on other aspects of collective bargaining, including on areas of management and labor cooperation directly or indirectly affecting collective

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1 bargaining. The commission may charge a reasonable fee for participation in the
2 programs.

3 **SECTION 17.** 111.77 (3) of the statutes is amended to read:

4 111.77 (3) Where the parties have no procedures for disposition of a dispute and
5 an impasse has been reached, either party may petition the commission to initiate
6 compulsory, final, and binding arbitration of the dispute. If in determining whether
7 an impasse has been reached the commission finds that any of the procedures set
8 forth in sub. (1) have not been complied with and that compliance would tend to
9 result in a settlement, it may require such compliance as a prerequisite to ordering
10 arbitration. If after such procedures have been complied with or the commission has
11 determined that compliance would not be productive of a settlement and the
12 commission determines that an impasse has been reached, it shall issue an order
13 requiring arbitration. The commission shall in connection with the order for
14 arbitration submit a panel of 5 arbitrators from which the parties may alternately
15 strike names until a single name is left, who shall be appointed by the commission
16 as arbitrator, to the parties a list of 7 arbitrators. Each party shall strike ^{2 NAMES} ~~one name~~
17 from the list. From the remaining ³ ~~5~~ names, the commission shall randomly appoint
18 an arbitrator, whose expenses shall be shared equally between the parties.
19 Arbitration proceedings under this section shall not be interrupted or terminated by
20 reason of any prohibited practice charge filed by either party at any time.

21 **SECTION 18.** 111.77 (4) (a) of the statutes is amended to read:

22 111.77 (4) (a) *Form 1.* ~~The~~ Except as provided in sub. (4m), the arbitrator shall
23 have the power to determine all issues in dispute involving wages, hours and
24 conditions of employment.

25 **SECTION 19.** 111.77 (4) (b) of the statutes is amended to read:

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1 111.77 (4) (b) *Form 2*. The commission shall appoint an investigator to
2 determine the nature of the impasse. The commission's investigator shall advise the
3 commission in writing, transmitting copies of such advice to the parties of each issue
4 which is known to be in dispute. Such advice shall also set forth the final offer of each
5 party as it is known to the investigator at the time that the investigation is closed.

6 Neither party may amend its final offer thereafter, except with the written
7 agreement of the other party. ~~The~~ Except as provided in sub. (4m), the arbitrator
8 shall select the final offer of one of the parties and shall issue an award incorporating
9 that offer without modification.

10 SECTION 20. 111.77 (4m) of the statutes is created to read:

11 111.77 (4m) ^(a) No arbitration decision under sub. (4) may include any item
12 requiring the retroactive application of a pay adjustment for any period occurring
13 before the date that the arbitrator issues the arbitration decision. ~~the arbitrator~~

14 SECTION 21. 111.77 (6) (d) (intro.) of the statutes is amended to read:

15 111.77 (6) (d) (intro.) Comparison of the wages, hours and conditions of
16 employment of the employees involved in the arbitration proceeding with the wages,
17 hours, and conditions of employment of other employees performing similar services
18 in the same community and with other employees generally:

19 SECTION 22. 111.77 (6) (d) 1. of the statutes is amended to read:

20 111.77 (6) (d) 1. In public employment in ~~comparable communities~~ the same
21 community.

22 SECTION 23. 111.77 (6) (d) 2. of the statutes is amended to read:

23 111.77 (6) (d) 2. In private employment in ~~comparable communities~~ the same
24 community.

25 SECTION 24. Initial applicability.

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SECTION 24

(1) This act first applies to collective bargaining agreements under subchapter IV of chapter 111 for which a notice of commencement of contract negotiations has been filed by either party under section 111.70 (4) (cm) 1. or 111.77 (1) of the statutes on the effective date of this subsection.

(END)

**2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3196/3ins
RAC::

Insert Analysis:

5. The bill provides that in all local government employment (other than law enforcement in the City of Milwaukee) neither the municipal employer or the labor organization may include in its final offer any item that would require the retroactive application of a salary adjustment for any period occurring before the date that the arbitrator issues the arbitration decision. However, the bill also provides that the arbitrator, if he or she adopts the labor organization's final offer, must require the retroactive application of a salary adjustment for the period under the agreement that occurs before the date that the arbitrator issues the arbitration decision.

Insert 7-18:

, except that no party may include in its final offer any item that would require the retroactive application of a salary adjustment for any period occurring before the date that the arbitrator issues the arbitration decision

Insert 7-19:

and shall strike from that position any item that would require the retroactive application of a salary adjustment for any period occurring before the date that the arbitrator issues the arbitration decision

Insert 9-19:

~~SECTION 111.70~~ 111.70 (4) (cm) 6. d. of the statutes is amended to read:

111.70 (4) (cm) 6. d. Before issuing his or her arbitration decision, the arbitrator shall, on his or her own motion or at the request of either party, conduct a meeting open to the public for the purpose of providing the opportunity to both parties to explain or present supporting arguments for their complete offer on all matters to be covered by the proposed agreement. The arbitrator shall adopt without further modification the final offer of one of the parties on all disputed issues submitted under subd. 6. am., except those items that the commission determines not to be mandatory subjects of bargaining and those items which have not been treated as

mandatory subjects by the parties, and including any prior modifications of such offer mutually agreed upon by the parties under subd. 6. b., ~~which~~ If the arbitrator adopts the final offer of the labor organization, the arbitrator shall also require the retroactive application of any salary adjustment for the period covered under the collective bargaining agreement that occurs before the date that the arbitrator issues the decision. The arbitrator's decision shall be final and binding on both parties and shall be incorporated into a written collective bargaining agreement. The arbitrator shall serve a copy of his or her decision on both parties and the commission.

History: 1971 c. 124, 246, 247, 307, 336; 1973 c. 64, 65; 1977 c. 178, 186, 272, 442, 449; 1979 c. 32 s. 92 (15); 1981 c. 20, 112, 187; 1983 a. 189, 192; 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 318; 1987 a. 153, 399; 1991 a. 136; 1993 a. 16, 429, 492; 1995 a. 27, 225, 289; 1997 a. 27, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 2001 a. 16.

Insert 13-6:

No party may include in its final offer any item that would require the retroactive application of a salary adjustment for any period occurring before the date that the arbitrator issues the arbitration decision.

Insert 13-13:

, unless the arbitrator awards a pay adjustment that is substantially similar to that included in the final offer of the labor organization

Insert 13-14:

2. If the arbitrator adopts the final offer of the labor organization under sub. (4) [✓](b), the arbitrator shall also require the retroactive application of any salary adjustment for the period covered under the collective bargaining agreement that occurs before the date that the arbitrator issues the decision.

WEIGHTING FACTORS

Greatest weight – same

Greater weight – “The economic conditions in the jurisdiction of the municipal employer, and its financial ability to meet the costs of any proposed settlement. In making this determination, the arbitrator shall give consideration to the revenue available to the local government and shall avoid, to the extent possible, settlements that would require the local government to increase its property tax rate to maintain essential services.

Other factors

- a. Same -Lawful authority
- b. Same -Stipulations
- c. The interests and welfare of the public
- d. Comparison of wages, hours, and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of employees performing similar services in the same community.
- e. Same-Cpi
- f. Same-Total compensation
- g. Same-Changes during pendency
- h. Same-Other factors

Also, use same factors
under S. 111.77(6)

Champagne, Rick

From: Solie, Denise
Sent: Wednesday, October 01, 2003 5:50 PM
To: Champagne, Rick
Subject: RE:

Rick,
I talked with Mark. This is fine.
denise

-----Original Message-----

From: Champagne, Rick
Sent: Wednesday, October 01, 2003 5:24 PM
To: Gottlieb, Mark; Solie, Denise
Subject:

Here's some language:

In making this determination, the arbitrator or arbitration panel shall specifically consider the revenues available to the municipal employer without the municipal employer

having to increase its property tax rate to maintain essential services.

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State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3196/3 4

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Thurs, early PM

2003 BILL

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Analysis by the Legislative Reference Bureau

The bill does all of the following:

1. Under current law, in local government employment other than law enforcement and fire fighting employment, if a dispute relating to the terms of a proposed collective bargaining agreement has not been settled after a reasonable period of negotiation and after mediation by the Wisconsin Employment Relations Commission (WERC), either party, or the parties jointly, may petition WERC to initiate compulsory, final, and binding arbitration with respect to any dispute relating to wages, hours, and conditions of employment. If WERC determines, after investigation, that an impasse exists and that arbitration is required, WERC must submit to the parties a list of seven arbitrators, from which the parties alternately strike names until one arbitrator is left. As an alternative to a single arbitrator,

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WERC may provide for an arbitration panel that consists of one person selected by each party and one person selected by WERC. As a further alternative, WERC may also provide a process that allows for a random selection of a single arbitrator from a list of seven names submitted by WERC. Under current law, an arbitrator or arbitration panel must adopt the final offer of one of the parties on all disputed issues, which is then incorporated into the collective bargaining agreement.

The bill eliminates the option of an arbitration panel and, instead, provides that the only option available to the parties is a random selection process resulting in a single arbitrator. Under this process, WERC submits a list of seven arbitrators to the parties, the parties each strike two names, and WERC randomly chooses the arbitrator from among the remaining three names.

2. Under current law, in local government law enforcement and fire fighting employment (other than law enforcement in the City of Milwaukee), if WERC determines that an impasse exists between the parties WERC must issue an order requiring arbitration. In connection with this order, WERC must submit to the parties a list of five arbitrators from which the parties can alternately strike names until a single name is left and then that person is appointed as the arbitrator by WERC. The bill changes the selection process to require that WERC submit a list of seven arbitrators to the parties from which list each party strikes two names. From the remaining three names, WERC must randomly select a name and appoint that person as the arbitrator.

3. ^{an arbitration} Current law provides that in reaching a decision, involving local government employment other than law enforcement and fire fighting employment, the arbitrator must give weight to many factors, including the lawful authority of the municipal employer, the stipulations of the parties, the interest and welfare of the public, and the financial ability of the unit of government to meet the costs of the proposed agreement, comparison of wages, hours, and conditions of employment with those of other public and private sector employees in the same and comparable communities, the cost of living, the overall compensation and benefits that the employees currently receive, and other similar factors. But, under current law, the arbitrator is required to give greater weight to economic conditions in the jurisdiction of the employer and the greatest weight to any state law or directive that places expenditure or revenue limitations on an employer.

The bill provides that no arbitrator's decision may take effect unless the arbitrator gives an accounting in writing of the consideration of each of the factors in reaching his or her decision. In addition, the bill changes the factors to require that the arbitrator consider the wages, hours, and conditions of employment of public and private sector employment in the same community and not also in comparable communities.

4. Current law in local government law enforcement and fire fighting employment (other than law enforcement in the City of Milwaukee) requires that the arbitrator, in reaching a decision, must consider the wages, hours, and conditions of employment of public and private sector employment in comparable communities. The bill requires the arbitrator only to consider such employment in the same community.

under the Municipal Employment Relations Act,

Insert
Analysis →

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3 employment
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5. The bill provides that in all local government employment (other than law enforcement in the City of Milwaukee) neither the municipal employer nor the labor organization may include in its final offer any item that would require the retroactive application of a salary adjustment for any period occurring before the date that the arbitrator issues the arbitration decision. However, the bill also provides that the arbitrator, if he or she adopts the labor organization's final offer, must require the retroactive application of a salary adjustment for the period under the agreement that occurs before the date that the arbitrator issues the arbitration decision.

6. Under ~~The Municipal Employment Relations Act~~, municipal employers and employees must bargain all issues related to wages, hours, and conditions of employment. The bill prohibits bargaining on any municipal employer's decision to enter into contracts with persons who are not municipal employees for the performance of services for the municipality, or the impact of any such decision on the wages, hours, and conditions of employment of the municipal employees who would otherwise perform those services.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 20.425 (1) (i) of the statutes, as affected by 2003 Wisconsin Act 33,
2 is amended to read:

3 20.425 (1) (i) *Fees, collective bargaining training, and publications.* The
4 amounts in the schedule for the performance of fact-finding, mediation and
5 arbitration functions, for the provision of copies of transcripts, for the cost of
6 operating training programs under ss. 111.09 (3), 111.71 (5), and 111.94 (3), and for
7 the preparation of publications, transcripts, reports and other copied material. All
8 moneys received under ss. 111.09 (1) and (2), 111.71 (1) and (2) and 111.94 (1) and (2),
9 all moneys received from arbitrators and arbitration panel members, and
10 individuals who are interested in serving in such positions, and from individuals and
11 organizations who participate in other collective bargaining training programs
12 conducted by the commission, and all moneys received from the sale of publications,

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1 transcripts, reports, and other copied material shall be credited to this appropriation
2 account.

3 **SECTION 2.** 111.70 (1) (a) of the statutes is amended to read:

4 111.70 (1) (a) "Collective bargaining" means the performance of the mutual
5 obligation of a municipal employer, through its officers and agents, and the
6 representative of its municipal employees in a collective bargaining unit, to meet and
7 confer at reasonable times, in good faith, with the intention of reaching an
8 agreement, or to resolve questions arising under such an agreement, with respect to
9 wages, hours and conditions of employment, and with respect to a requirement of the
10 municipal employer for a municipal employee to perform law enforcement and fire
11 fighting services under s. 61.66, except as provided in sub. (4) (m) and (nm) and s.
12 40.81 (3) and except that a municipal employer shall not meet and confer with respect
13 to any proposal to diminish or abridge the rights guaranteed to municipal employees
14 under ch. 164. The duty to bargain, however, does not compel either party to agree
15 to a proposal or require the making of a concession. Collective bargaining includes
16 the reduction of any agreement reached to a written and signed document. The
17 municipal employer shall not be required to bargain on subjects reserved to
18 management and direction of the governmental unit except insofar as the manner
19 of exercise of such functions affects the wages, hours and conditions of employment
20 of the municipal employees in a collective bargaining unit. In creating this
21 subchapter the legislature recognizes that the municipal employer must exercise its
22 powers and responsibilities to act for the government and good order of the
23 jurisdiction which it serves, its commercial benefit and the health, safety and welfare
24 of the public to assure orderly operations and functions within its jurisdiction,

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1 subject to those rights secured to municipal employees by the constitutions of this
2 state and of the United States and by this subchapter.

3 **SECTION 3.** 111.70 (1) (dm) of the statutes is amended to read:

4 111.70 (1) (dm) "Economic issue" means salaries, overtime pay, sick leave,
5 payments in lieu of sick leave usage, vacations, clothing allowances in excess of the
6 actual cost of clothing, length-of-service credit, continuing education credit, shift
7 premium pay, longevity pay, extra duty pay, performance bonuses, health insurance,
8 life insurance, dental insurance, disability insurance, vision insurance, long-term
9 care insurance, worker's compensation and unemployment insurance, social
10 security benefits, vacation pay, holiday pay, lead worker pay, temporary assignment
11 pay, retirement contributions, supplemental retirement benefits, severance or other
12 separation pay, hazardous duty pay, certification or license payment, and limitations
13 on layoffs that create a new or increased financial liability on the employer and
14 ~~contracting or subcontracting of work that would otherwise be performed by~~
15 ~~municipal employees in the collective bargaining unit with which there is a labor~~
16 ~~dispute.~~ ✓

17 **SECTION 4.** 111.70 (4) (cm) 5s. of the statutes is amended to read:

18 111.70 (4) (cm) 5s. 'Issues subject to arbitration.' In a collective bargaining unit
19 consisting of school district professional employees, the municipal employer or the
20 labor organization may petition the commission to determine whether the municipal
21 employer has submitted a qualified economic offer. The commission shall appoint an
22 investigator for that purpose. If the investigator finds that the municipal employer
23 has submitted a qualified economic offer, the investigator shall determine whether
24 a deadlock exists between the parties with respect to all economic issues. If the
25 municipal employer submits a qualified economic offer applicable to any period

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beginning on or after July 1, 1993, no economic issues are subject to interest arbitration under subd. 6. for that period, ~~except that only the impact of contracting out or subcontracting work that would otherwise be performed by municipal employees in the collective bargaining unit is subject to interest arbitration under~~ subd. 6. In such a collective bargaining unit, economic issues concerning the wages, hours or conditions of employment of the school district professional employees in the unit for any period prior to July 1, 1993, are subject to interest arbitration under subd. 6. for that period. In such a collective bargaining unit, noneconomic issues applicable to any period on or after July 1, 1993, are subject to interest arbitration after the parties have reached agreement and stipulate to agreement on all economic issues concerning the wages, hours or conditions of employment of the school district professional employees in the unit for that period. In such a collective bargaining unit, if the commission's investigator finds that the municipal employer has submitted a qualified economic offer and that a deadlock exists between the parties with respect to all economic issues, the municipal employer may implement the qualified economic offer. On the 90th day prior to expiration of the period included within the qualified economic offer, if no agreement exists on that day, the parties are deemed to have stipulated to the inclusion in a new or revised collective bargaining agreement of all provisions of any predecessor collective bargaining agreement concerning economic issues, or of all provisions of any existing collective bargaining agreement concerning economic issues if the parties have reopened negotiations under an existing agreement, as modified by the terms of the qualified economic offer and as otherwise modified by the parties. In such a collective bargaining unit, on and after that 90th day, a municipal employer that refuses to bargain collectively with respect to the terms of that stipulation, applicable to the 90-day period prior to

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1 expiration of the period included within the qualified economic offer, does not violate
2 sub. (3) (a) 4. Any such unilateral implementation after August 11, 1993, during the
3 90-day period prior to expiration of the period included within a qualified economic
4 offer, operates as a full, final and complete settlement of all economic issues between
5 the parties for the period included within the qualified economic offer. The failure
6 of a labor organization to recognize the validity of such a lawful qualified economic
7 offer does not affect the obligation of the municipal employer to submit economic
8 issues to arbitration under subd. 6.

9 **SECTION 5.** 111.70 (4) (cm) 6. am. of the statutes is amended to read:

10 111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the
11 commission shall make an investigation, with or without a formal hearing, to
12 determine whether arbitration should be commenced. If in determining whether an
13 impasse exists the commission finds that the procedures set forth in this paragraph
14 have not been complied with and such compliance would tend to result in a
15 settlement, it may order such compliance before ordering arbitration. The validity
16 of any arbitration award or collective bargaining agreement shall not be affected by
17 failure to comply with such procedures. Prior to the close of the investigation each
18 party shall submit in writing to the commission its single final offer containing its
19 final proposals on all issues in dispute that are subject to interest arbitration under
20 this subdivision or under subd. 5s. in collective bargaining units to which subd. 5s.
21 applies, except that no party may include in its final offer any item that would require
22 the retroactive application of a salary adjustment for any period occurring before the
23 date that the arbitrator issues the arbitration decision. If a party fails to submit a
24 single, ultimate final offer, the commission shall close the investigation based on the
25 last written position of the party and shall strike from that position any item that

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1 would require the retroactive application of a salary adjustment for any period
2 occurring before the date that the arbitrator issues the arbitration decision. The
3 municipal employer may not submit a qualified economic offer under subd. 5s. after
4 the close of the investigation. Such final offers may include only mandatory subjects
5 of bargaining, except that a permissive subject of bargaining may be included by a
6 party if the other party does not object and shall then be treated as a mandatory
7 subject. No later than such time, the parties shall also submit to the commission a
8 stipulation, in writing, with respect to all matters which are agreed upon for
9 inclusion in the new or amended collective bargaining agreement. The commission,
10 after receiving a report from its investigator and determining that arbitration should
11 be commenced, shall issue an order requiring arbitration and immediately submit

12 to the parties a list of 7 arbitrators. ~~Upon receipt of such list, the parties shall~~
13 ~~alternately strike names until a single name is left, who shall be appointed as~~
14 ~~arbitrator. The petitioning party shall notify the commission in writing of the~~
15 ~~identity of the arbitrator selected. Upon receipt of such notice, the commission shall~~
16 ~~formally appoint the arbitrator and submit to him or her the final offers of the~~
17 ~~parties. The final offers shall be considered public documents and shall be available~~
18 ~~from the commission. In lieu of a single arbitrator and upon request of both parties,~~
19 ~~the commission shall appoint a tripartite arbitration panel consisting of one member~~
20 ~~selected by each of the parties and a neutral person designated by the commission~~
21 ~~who shall serve as a chairperson. An arbitration panel has the same powers and~~
22 ~~duties as provided in this section for any other appointed arbitrator, and all~~
23 ~~arbitration decisions by such panel shall be determined by majority vote. In lieu of~~
24 ~~selection of the arbitrator by the parties and upon request of both parties, the~~
25 ~~commission shall establish a procedure for randomly selecting names of arbitrators.~~

Strat. Panel

↑ plain
text

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1 Under the procedure, the commission shall submit a list of 7 arbitrators to the
2 parties. Each party shall strike one name ~~2 names~~ from the list. From the remaining
3 ~~5~~ names, the commission shall randomly appoint an arbitrator. Unless both parties
4 to an arbitration proceeding otherwise agree in writing, every individual whose
5 name is submitted by the commission for appointment as an arbitrator shall be a
6 resident of this state at the time of submission and every individual who is
7 designated as an arbitration panel chairperson shall be a resident of this state at the
8 time of designation.

9 SECTION 6. 111.70 (4) (cm) 6. d. of the statutes is amended to read:

10 111.70 (4) (cm) 6. d. Before issuing his or her arbitration decision, the arbitrator
11 shall, on his or her own motion or at the request of either party, conduct a meeting
12 open to the public for the purpose of providing the opportunity to both parties to
13 explain or present supporting arguments for their complete offer on all matters to
14 be covered by the proposed agreement. The arbitrator shall adopt without further
15 modification the final offer of one of the parties on all disputed issues submitted
16 under subd. 6. am., except those items that the commission determines not to be
17 mandatory subjects of bargaining and those items which have not been treated as
18 mandatory subjects by the parties, and including any prior modifications of such
19 offer mutually agreed upon by the parties under subd. 6. b., which If the arbitrator
20 adopts the final offer of the labor organization, the arbitrator shall also require the
21 retroactive application of any salary adjustment for the period covered under the
22 collective bargaining agreement that occurs before the date that the arbitrator issues
23 the decision. The arbitrator's decision shall be final and binding on both parties and
24 shall be incorporated into a written collective bargaining agreement. The arbitrator
25 shall serve a copy of his or her decision on both parties and the commission.

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1 SECTION 7. 111.70 (4) (cm) 7. of the statutes is amended to read:

2 111.70 (4) (cm) 7. 'Factor given greatest weight.' In making any decision under
3 the arbitration procedures authorized by this paragraph, the arbitrator ^{plain} ~~or~~
4 arbitration panel shall consider and shall give the greatest weight to any state law
5 or directive lawfully issued by a state legislative or administrative officer, body or
6 agency which places limitations on expenditures that may be made or revenues that
7 may be collected by a municipal employer. ~~The arbitrator or arbitration panel shall~~
8 ~~give an accounting of the consideration of this factor in the arbitrator's or panel's~~
9 ~~decision.~~

10 SECTION 8. 111.70 (4) (cm) 7g. of the statutes is amended to read:

11 111.70 (4) (cm) 7g. 'Factor given greater weight.' In making any decision under
12 the arbitration procedures authorized by this paragraph, the arbitrator ^{plain} ~~or~~
13 arbitration panel shall consider and shall give greater weight to economic conditions
14 in the jurisdiction of the municipal employer ^{and its financial ability to meet the costs} than to any of the factors specified in ~~required~~
15 ~~subd. 7r.~~ ^{collective bargaining agreement}

16 SECTION 9. 111.70 (4) (cm) 7r. (intro.) of the statutes is amended to read:

17 111.70 (4) (cm) 7r. 'Other factors considered.' (intro.) In making any decision
18 under the arbitration procedures authorized by this paragraph, the arbitrator ~~or~~
19 arbitration panel shall also give weight to the following factors:

20 SECTION 10. 111.70 (4) (cm) 7r. d. of the statutes is amended to read:

21 111.70 (4) (cm) 7r. d. Comparison of wages, hours, and conditions of
22 employment of the municipal employees involved in the arbitration proceedings with
23 the wages, hours, and conditions of employment of other employees performing
24 similar services ~~in the same community~~ ^{jurisdiction of the municipal}
25 ~~employer~~

SECTION 11. 111.70 (4) (cm) 7r. e. of the statutes is ~~amended to read:~~ ^{repealed.}

fix component

of my proposed
settlement

Insert 10-15

Insert 10-20

plain
text

BILL

1 ~~111.70 (4) (cm) 7r. e. Comparison of the wages, hours, and conditions of~~
2 ~~employment of the municipal employees involved in the arbitration proceedings with~~
3 ~~the wages, hours, and conditions of employment of other employees generally in~~
4 ~~public employment in the same community and in comparable communities.~~

5 → SECTION 12. 111.70 (4) (cm) 7r. f. of the statutes is ~~amended to read:~~ ^N repealed.

6 111.70 (4) (cm) 7r. f. Comparison of the wages, hours, and conditions of
7 employment of the municipal employees involved in the arbitration proceedings with
8 the wages, hours, and conditions of employment of other employees in private
9 employment in the same community and in comparable communities.

10 SECTION 13. 111.70 (4) (cm) 7t. of the statutes is created to read:

11 111.70 (4) (cm) 7t. 'Consideration of factors in arbitration decision.' No decision
12 made by an arbitrator under the arbitration procedures authorized by this
13 paragraph may take effect unless the arbitrator gives an accounting in writing of the
14 consideration of the factors specified in subds. 7. to 7r. in the decision.

15 SECTION 14. 111.70 (4) (m) (title) of the statutes is amended to read:

16 111.70 (4) (m) (title) *Prohibited subjects of bargaining; school districts.*

17 SECTION 15. 111.70 (4) (nm) of the statutes is created to read:

18 111.70 (4) (nm) *Prohibited subjects of bargaining; all municipal employers.* A
19 municipal employer is prohibited from bargaining collectively with respect to the
20 employer's decision to enter into contracts with persons who are not municipal
21 employees for the performance of services for the municipality, or the impact of any
22 such decision on the wages, hours, and conditions of employment of the municipal
23 employees who would otherwise perform those services.

24 SECTION 16. 111.71 (5) of the statutes is amended to read:

BILL**SECTION 16**

1 111.71 (5) The commission shall, on a regular basis, provide training programs
2 to prepare individuals for service as arbitrators or arbitration panel members under
3 s. 111.70 (4) (cm). The commission shall engage in appropriate promotional and
4 recruitment efforts to encourage participation in the training programs by
5 individuals throughout the state, including at least 10 residents of each
6 congressional district. The commission may also provide training programs to
7 individuals and organizations on other aspects of collective bargaining, including on
8 areas of management and labor cooperation directly or indirectly affecting collective
9 bargaining. The commission may charge a reasonable fee for participation in the
10 programs.

11 **SECTION 17.** 111.77 (3) of the statutes is amended to read:

12 111.77 (3) Where the parties have no procedures for disposition of a dispute and
13 an impasse has been reached, either party may petition the commission to initiate
14 compulsory, final, and binding arbitration of the dispute. If in determining whether
15 an impasse has been reached the commission finds that any of the procedures set
16 forth in sub. (1) have not been complied with and that compliance would tend to
17 result in a settlement, it may require such compliance as a prerequisite to ordering
18 arbitration. If after such procedures have been complied with or the commission has
19 determined that compliance would not be productive of a settlement and the
20 commission determines that an impasse has been reached, it shall issue an order
21 requiring arbitration. The commission shall in connection with the order for
22 arbitration submit a panel of 5 arbitrators from which the parties may alternately
23 strike names until a single name is left, who shall be appointed by the commission
24 as arbitrator, to the parties a list of 7 arbitrators. Each party shall strike 2 names
25 from the list. From the remaining 3 names, the commission shall randomly appoint

BILL

~~an arbitrator, whose expenses shall be shared equally between the parties.~~
~~Arbitration proceedings under this section shall not be interrupted or terminated by~~
~~reason of any prohibited practice charge filed by either party at any time.~~

SECTION 18. 111.77 (4) (a) of the statutes is amended to read:

111.77 (4) (a) *Form 1.* ~~The~~ Except as provided in sub. (4m), the arbitrator shall have the power to determine all issues in dispute involving wages, hours and conditions of employment.

SECTION 19. 111.77 (4) (b) of the statutes is amended to read:

111.77 (4) (b) *Form 2.* The commission shall appoint an investigator to determine the nature of the impasse. The commission's investigator shall advise the commission in writing, transmitting copies of such advice to the parties of each issue which is known to be in dispute. Such advice shall also set forth the final offer of each party as it is known to the investigator at the time that the investigation is closed. No party may include in its final offer any item that would require the retroactive application of a salary adjustment for any period occurring before the date that the arbitrator issues the arbitration decision. Neither party may amend its final offer thereafter, except with the written agreement of the other party. ~~The~~ Except as provided in sub. (4m), the arbitrator shall select the final offer of one of the parties and shall issue an award incorporating that offer without modification.

SECTION 20. 111.77 (4m) of the statutes is created to read:

111.77 (4m) 1. No arbitration decision under sub. (4) (a) may include any item requiring the retroactive application of a pay adjustment for any period occurring before the date that the arbitrator issues the arbitration decision, ^{except that if} ~~unless~~ the arbitrator awards a pay adjustment that is substantially similar to that included in the final offer of the labor organization.

The arbitrator shall require the retroactive application of ^{the} pay adjustment

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2. If the arbitrator adopts the final offer of the labor organization under sub. (4) (b), the arbitrator shall also require the retroactive application of any salary adjustment for the period covered under the collective bargaining agreement that occurs before the date that the arbitrator issues the decision.

SECTION 21. 111.77 (6) (d) (intro.) of the statutes is amended to read:

~~111.77 (6) (d) (intro.) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services in the same community and with other employees generally:~~

SECTION 22. 111.77 (6) (d) 1 of the statutes is amended to read:

~~111.77 (6) (d) 1. In public employment in comparable communities the same
community.~~

~~SECTION 23.~~ 111.77 (6) (d) 2. of the statutes is amended to read:

111.77 (6) (d) 2. In private employment in comparable communities the same
community.

SECTION 24. Initial applicability.

(1) This act first applies to collective bargaining agreements under subchapter IV of chapter 111 for which a notice of commencement of contract negotiations has been filed by either party under section 111.70 (4) (cm) 1. or 111.77 (1) of the statutes on the effective date of this subsection.

(END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3196/4ins
RAC::

SAV

Insert Analysis:

1. Currently, under the Municipal Employment Relations Act (MERA), with respect to local government employment other than law enforcement and fire fighting employment, the arbitrator in reaching a decision must give weight to many factors, including the lawful authority of the municipal employer, the stipulations of the parties, the interest and welfare of the public, and the financial ability of the unit of government to meet the costs of the proposed agreement, comparison of wages, hours, and conditions of employment with those of other public and private sector employees in the same and comparable communities, the cost of living, the overall compensation and benefits that the employees currently receive, and other similar factors. But, under current law, the arbitrator is required to give greater weight to economic conditions in the jurisdiction of the employer and the greatest weight to any state law or directive that places expenditure or revenue limitations on an employer.

The bill changes the greater weight factor to require that the arbitrator consider the financial ability of the municipal employer to meet the costs required under the proposed settlement. In addition, the bill eliminates those factors requiring comparison of wages, hours, and conditions of employment of public and private sector employment in the same community or comparable communities. Finally, the bill provides that no arbitrator's decision may take effect unless the arbitrator gives an accounting in writing of the consideration of each of the factors in reaching his or her decision.

2. Current law under MERA, in local government law enforcement and fire fighting employment (other than law enforcement in the City of Milwaukee) requires that the arbitrator, in reaching a decision, must consider a number of factors, the majority of which are identical to those that the arbitrator must consider in other disputes involving local government. This bill makes the facts that the arbitrator must consider in local government law enforcement and fire fighting employment (other than law enforcement in the City of Milwaukee) identical to those the arbitrator must consider in disputes involving other local government employment. As a result, the arbitrator will have the same greatest weight, greater weight, and other factors to consider. The bill also requires that no arbitrator's decision may take effect unless the arbitrator gives an accounting in writing of the consideration of each of the factors in reaching his or her decision.

Insert 10-15:

employment
employment
considering the factor specified in this subdivision

no 11
In making this determination, the arbitrator or arbitration panel shall specifically consider the revenues available to the municipal employer without the municipal employer having to increase its property tax rate to maintain essential services.

Insert 10-20:

SECTION 1. 111.70 (4) (cm) 7r. c. of the statutes is amended to read:

111.70 (4) (cm) 7r. c. The interests and welfare of the public ~~and the financial ability of the unit of government to meet the costs of any proposed settlement.~~ ✓

History: 1971 c. 124, 246, 247, 307, 336; 1973 c. 64, 65; 1977 c. 178, 186, 272, 442, 449; 1979 c. 32 s. 92 (15); 1981 c. 20, 112, 187; 1983 a. 189, 192; 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 318; 1987 a. 153, 399; 1991 a. 136; 1993 a. 16, 429, 492; 1995 a. 27, 225, 289; 1997 a. 27, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 2001 a. 16.

Insert 14-16: ✓

SECTION 2. 111.77 (6) of the statutes is repealed and recreated to read:

111.77 (6) (a) In making any decision under the arbitration procedures authorized by this section, ✓ the arbitrator shall consider and shall give the greatest weight to any state law or directive lawfully issued by a state legislative or administrative officer, body or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer. ✓

(b) In making any decision under the arbitration procedures authorized by this section, the arbitrator shall consider and shall give greater weight to economic conditions in the jurisdiction of the municipal employer and its financial ability to meet the costs of any proposed settlement than to any of the factors specified in par.

(c) In ^{considering the factor specified in this paragraph} ~~making this determination~~, the arbitrator shall specifically consider the revenues available to the municipal employer without the municipal employer having to increase its property tax rate to maintain essential services.

(c) In making any decision under the arbitration procedures authorized by this section, ✓ the arbitrator shall also give weight to the following factors:

1. The lawful authority of the municipal employer.
2. Stipulations of the parties.
3. The interests and welfare of the public.

4. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services in the jurisdiction of the municipal employer.

5. The average consumer prices for goods and services, commonly known as the cost of living.

6. The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

7. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

8. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration, or otherwise between the parties, in the public service or in private employment.

(d) No decision made by an arbitrator under the arbitration procedures authorized by this section may take effect unless the arbitrator gives an accounting in writing of the consideration of the factors specified in pars. (a) to (c) in the decision.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3196/4 5

RAC:kjf&cs:jf

Today

2003 BILL

RMR

Regen

1 AN ACT *to repeal* 111.70 (4) (cm) 7r. e. and 111.70 (4) (cm) 7r. f.; *to amend* 111.70
2 (1) (a), 111.70 (1) (dm), 111.70 (4) (cm) 5s., 111.70 (4) (cm) 6. am., 111.70 (4) (cm)
3 6. d., 111.70 (4) (cm) 7., 111.70 (4) (cm) 7g., 111.70 (4) (cm) 7r. c., 111.70 (4) (cm)
4 7r. d., 111.70 (4) (m) (title), 111.77 (4) (a) and 111.77 (4) (b); *to repeal and*
5 *recreate* 111.77 (6); and *to create* 111.70 (4) (cm) 7t., 111.70 (4) (nm) and 111.77
6 (4m) of the statutes; **relating to:** employment relations under the Municipal
7 Employment Relations Act.

Analysis by the Legislative Reference Bureau

The bill does all of the following:

1. Currently, under the Municipal Employment Relations Act (MERA), with respect to local government employment other than law enforcement and fire fighting employment, the arbitrator in reaching a decision must give weight to many factors, including the lawful authority of the municipal employer, the stipulations of the parties, the interest and welfare of the public, the financial ability of the unit of government to meet the costs of the proposed agreement, comparison of wages, hours, and conditions of employment with those of other public and private sector employees in the same and comparable communities, the cost of living, the overall compensation and benefits that the employees currently receive, and other similar factors. But, under current law, the arbitrator is required to give greater weight to

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economic conditions in the jurisdiction of the employer and the greatest weight to any state law or directive that places expenditure or revenue limitations on an employer.

The bill changes the greater weight factor to require that the arbitrator consider the financial ability of the municipal employer to meet the costs required under the proposed settlement. In addition, the bill eliminates those factors requiring comparison of wages, hours, and conditions of employment of public and private sector employment in the same community or comparable communities. Finally, the bill provides that no arbitrator's decision may take effect unless the arbitrator gives an accounting in writing of the consideration of each of the factors in reaching his or her decision.

2. Current law under MERA, in local government law enforcement and fire fighting employment (other than law enforcement employment in the City of Milwaukee) requires that the arbitrator, in reaching a decision, must consider a number of factors, the majority of which are identical to those that the arbitrator must consider in other disputes involving local government employment. This bill makes the facts that the arbitrator must consider in local government law enforcement and fire fighting employment (other than law enforcement employment in the City of Milwaukee) identical to those the arbitrator must consider in disputes involving other local government employment. As a result, the arbitrator will have the same greatest weight, greater weight, and other factors to consider. The bill also requires that no arbitrator's decision may take effect unless the arbitrator gives an accounting in writing of the consideration of each of the factors in reaching his or her decision.

3. The bill provides that in all local government employment (other than law enforcement employment in the City of Milwaukee) neither the municipal employer nor the labor organization may include in its final offer any item that would require the retroactive application of a salary adjustment for any period occurring before the date that the arbitrator issues the arbitration decision. However, the bill also provides that the arbitrator, if he or she adopts the labor organization's final offer, must require the retroactive application of a salary adjustment for the period under the agreement that occurs before the date that the arbitrator issues the arbitration decision.

4. Under MERA, municipal employers and employees must bargain all issues related to wages, hours, and conditions of employment. The bill prohibits bargaining on any municipal employer's decision to enter into contracts with persons who are not municipal employees for the performance of services for the municipality, or the impact of any such decision on the wages, hours, and conditions of employment of the municipal employees who would otherwise perform those services.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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✓
1 **SECTION 1.** 111.70 (1) (a) of the statutes is amended to read:

2 111.70 (1) (a) “Collective bargaining” means the performance of the mutual
3 obligation of a municipal employer, through its officers and agents, and the
4 representative of its municipal employees in a collective bargaining unit, to meet and
5 confer at reasonable times, in good faith, with the intention of reaching an
6 agreement, or to resolve questions arising under such an agreement, with respect to
7 wages, hours and conditions of employment, and with respect to a requirement of the
8 municipal employer for a municipal employee to perform law enforcement and fire
9 fighting services under s. 61.66, except as provided in sub. (4) (m) and (nm) and s.
10 40.81 (3) and except that a municipal employer shall not meet and confer with respect
11 to any proposal to diminish or abridge the rights guaranteed to municipal employees
12 under ch. 164. The duty to bargain, however, does not compel either party to agree
13 to a proposal or require the making of a concession. Collective bargaining includes
14 the reduction of any agreement reached to a written and signed document. The
15 municipal employer shall not be required to bargain on subjects reserved to
16 management and direction of the governmental unit except insofar as the manner
17 of exercise of such functions affects the wages, hours and conditions of employment
18 of the municipal employees in a collective bargaining unit. In creating this
19 subchapter the legislature recognizes that the municipal employer must exercise its
20 powers and responsibilities to act for the government and good order of the
21 jurisdiction which it serves, its commercial benefit and the health, safety and welfare
22 of the public to assure orderly operations and functions within its jurisdiction,
23 subject to those rights secured to municipal employees by the constitutions of this
24 state and of the United States and by this subchapter.

✓
25 **SECTION 2.** 111.70 (1) (dm) of the statutes is amended to read:

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111.70 (1) (dm) "Economic issue" means salaries, overtime pay, sick leave, payments in lieu of sick leave usage, vacations, clothing allowances in excess of the actual cost of clothing, length-of-service credit, continuing education credit, shift premium pay, longevity pay, extra duty pay, performance bonuses, health insurance, life insurance, dental insurance, disability insurance, vision insurance, long-term care insurance, worker's compensation and unemployment insurance, social security benefits, vacation pay, holiday pay, lead worker pay, temporary assignment pay, retirement contributions, supplemental retirement benefits, severance or other separation pay, hazardous duty pay, certification or license payment, and limitations on layoffs that create a new or increased financial liability on the employer and ~~contracting or subcontracting of work that would otherwise be performed by municipal employees in the collective bargaining unit with which there is a labor dispute.~~

SECTION 3. 111.70 (4) (cm) 5s. of the statutes is amended to read:

111.70 (4) (cm) 5s. 'Issues subject to arbitration.' In a collective bargaining unit consisting of school district professional employees, the municipal employer or the labor organization may petition the commission to determine whether the municipal employer has submitted a qualified economic offer. The commission shall appoint an investigator for that purpose. If the investigator finds that the municipal employer has submitted a qualified economic offer, the investigator shall determine whether a deadlock exists between the parties with respect to all economic issues. If the municipal employer submits a qualified economic offer applicable to any period beginning on or after July 1, 1993, no economic issues are subject to interest arbitration under subd. 6. for that period, ~~except that only the impact of contracting out or subcontracting work that would otherwise be performed by municipal~~

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1 ~~employees in the collective bargaining unit is subject to interest arbitration under~~
2 ~~subd. 6.~~ In such a collective bargaining unit, economic issues concerning the wages,
3 hours or conditions of employment of the school district professional employees in the
4 unit for any period prior to July 1, 1993, are subject to interest arbitration under
5 subd. 6. for that period. In such a collective bargaining unit, noneconomic issues
6 applicable to any period on or after July 1, 1993, are subject to interest arbitration
7 after the parties have reached agreement and stipulate to agreement on all economic
8 issues concerning the wages, hours or conditions of employment of the school district
9 professional employees in the unit for that period. In such a collective bargaining
10 unit, if the commission's investigator finds that the municipal employer has
11 submitted a qualified economic offer and that a deadlock exists between the parties
12 with respect to all economic issues, the municipal employer may implement the
13 qualified economic offer. On the 90th day prior to expiration of the period included
14 within the qualified economic offer, if no agreement exists on that day, the parties are
15 deemed to have stipulated to the inclusion in a new or revised collective bargaining
16 agreement of all provisions of any predecessor collective bargaining agreement
17 concerning economic issues, or of all provisions of any existing collective bargaining
18 agreement concerning economic issues if the parties have reopened negotiations
19 under an existing agreement, as modified by the terms of the qualified economic offer
20 and as otherwise modified by the parties. In such a collective bargaining unit, on and
21 after that 90th day, a municipal employer that refuses to bargain collectively with
22 respect to the terms of that stipulation, applicable to the 90-day period prior to
23 expiration of the period included within the qualified economic offer, does not violate
24 sub. (3) (a) 4. Any such unilateral implementation after August 11, 1993, during the
25 90-day period prior to expiration of the period included within a qualified economic

BILL**SECTION 3**

1 offer, operates as a full, final and complete settlement of all economic issues between
2 the parties for the period included within the qualified economic offer. The failure
3 of a labor organization to recognize the validity of such a lawful qualified economic
4 offer does not affect the obligation of the municipal employer to submit economic
5 issues to arbitration under subd. 6.

6 **SECTION 4.** 111.70 (4) (cm) 6. am. of the statutes is amended to read:

7 111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the
8 commission shall make an investigation, with or without a formal hearing, to
9 determine whether arbitration should be commenced. If in determining whether an
10 impasse exists the commission finds that the procedures set forth in this paragraph
11 have not been complied with and such compliance would tend to result in a
12 settlement, it may order such compliance before ordering arbitration. The validity
13 of any arbitration award or collective bargaining agreement shall not be affected by
14 failure to comply with such procedures. Prior to the close of the investigation each
15 party shall submit in writing to the commission its single final offer containing its
16 final proposals on all issues in dispute that are subject to interest arbitration under
17 this subdivision or under subd. 5s. in collective bargaining units to which subd. 5s.
18 applies, except that no party may include in its final offer any item that would require
19 the retroactive application of a salary adjustment for any period occurring before the
20 date that the arbitrator issues the arbitration decision. If a party fails to submit a
21 single, ultimate final offer, the commission shall close the investigation based on the
22 last written position of the party and shall strike from that position any item that
23 would require the retroactive application of a salary adjustment for any period
24 occurring before the date that the arbitrator issues the arbitration decision. The
25 municipal employer may not submit a qualified economic offer under subd. 5s. after

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1 the close of the investigation. Such final offers may include only mandatory subjects
2 of bargaining, except that a permissive subject of bargaining may be included by a
3 party if the other party does not object and shall then be treated as a mandatory
4 subject. No later than such time, the parties shall also submit to the commission a
5 stipulation, in writing, with respect to all matters which are agreed upon for
6 inclusion in the new or amended collective bargaining agreement. The commission,
7 after receiving a report from its investigator and determining that arbitration should
8 be commenced, shall issue an order requiring arbitration and immediately submit
9 to the parties a list of 7 arbitrators. Upon receipt of such list, the parties shall
10 alternately strike names until a single name is left, who shall be appointed as
11 arbitrator. The petitioning party shall notify the commission in writing of the
12 identity of the arbitrator selected. Upon receipt of such notice, the commission shall
13 formally appoint the arbitrator and submit to him or her the final offers of the
14 parties. The final offers shall be considered public documents and shall be available
15 from the commission. In lieu of a single arbitrator and upon request of both parties,
16 the commission shall appoint a tripartite arbitration panel consisting of one member
17 selected by each of the parties and a neutral person designated by the commission
18 who shall serve as a chairperson. An arbitration panel has the same powers and
19 duties as provided in this section for any other appointed arbitrator, and all
20 arbitration decisions by such panel shall be determined by majority vote. In lieu of
21 selection of the arbitrator by the parties and upon request of both parties, the
22 commission shall establish a procedure for randomly selecting names of arbitrators.
23 Under the procedure, the commission shall submit a list of 7 arbitrators to the
24 parties. Each party shall strike one name from the list. From the remaining 5
25 names, the commission shall randomly appoint an arbitrator. Unless both parties

BILL**SECTION 4**

1 to an arbitration proceeding otherwise agree in writing, every individual whose
2 name is submitted by the commission for appointment as an arbitrator shall be a
3 resident of this state at the time of submission and every individual who is
4 designated as an arbitration panel chairperson shall be a resident of this state at the
5 time of designation.

6 **SECTION 5.** 111.70 (4) (cm) 6. d. of the statutes is amended to read:

7 111.70 (4) (cm) 6. d. Before issuing his or her arbitration decision, the arbitrator
8 shall, on his or her own motion or at the request of either party, conduct a meeting
9 open to the public for the purpose of providing the opportunity to both parties to
10 explain or present supporting arguments for their complete offer on all matters to
11 be covered by the proposed agreement. The arbitrator shall adopt without further
12 modification the final offer of one of the parties on all disputed issues submitted
13 under subd. 6. am., except those items that the commission determines not to be
14 mandatory subjects of bargaining and those items which have not been treated as
15 mandatory subjects by the parties, and including any prior modifications of such
16 offer mutually agreed upon by the parties under subd. 6. b., ~~which~~ If the arbitrator
17 adopts the final offer of the labor organization, the arbitrator shall also require the
18 retroactive application of any salary adjustment for the period covered under the
19 collective bargaining agreement that occurs before the date that the arbitrator issues
20 the decision. The arbitrator's decision shall be final and binding on both parties and
21 shall be incorporated into a written collective bargaining agreement. The arbitrator
22 shall serve a copy of his or her decision on both parties and the commission.

23 **SECTION 6.** 111.70 (4) (cm) 7. of the statutes is amended to read:

24 111.70 (4) (cm) 7. 'Factor given greatest weight.' In making any decision under
25 the arbitration procedures authorized by this paragraph, the arbitrator or

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1 arbitration panel shall consider and shall give the greatest weight to any state law
2 or directive lawfully issued by a state legislative or administrative officer, body or
3 agency which places limitations on expenditures that may be made or revenues that
4 may be collected by a municipal employer. ~~The arbitrator or arbitration panel shall~~
5 ~~give an accounting of the consideration of this factor in the arbitrator's or panel's~~
6 ~~decision.~~

7 **SECTION 7.** 111.70 (4) (cm) 7g. of the statutes is amended to read:

8 111.70 (4) (cm) 7g. 'Factor given greater weight.' In making any decision under
9 the arbitration procedures authorized by this paragraph, the arbitrator or
10 arbitration panel shall consider and shall give greater weight to economic conditions
11 in the jurisdiction of the municipal employer and its financial ability to meet the costs
12 of any proposed settlement than to any of the factors specified in subd. 7r. In
13 considering the factor specified in this subdivision, the arbitrator or arbitration
14 panel shall specifically consider the revenues available to the municipal employer
15 without the municipal employer having to increase its property tax rate to maintain
16 essential services.

17 **SECTION 8.** 111.70 (4) (cm) 7r. c. of the statutes is amended to read:

18 111.70 (4) (cm) 7r. c. The interests and welfare of the public ~~and the financial~~
19 ~~ability of the unit of government to meet the costs of any proposed settlement.~~

20 **SECTION 9.** 111.70 (4) (cm) 7r. d. of the statutes is amended to read:

21 111.70 (4) (cm) 7r. d. Comparison of wages, hours, and conditions of
22 employment of the municipal employees involved in the arbitration proceedings with
23 the wages, hours, and conditions of employment of other employees performing
24 similar services in the jurisdiction of the municipal employer *Same community*

25 **SECTION 10.** 111.70 (4) (cm) 7r. e. of the statutes is repealed:

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1 **SECTION 11.** 111.70 (4) (cm) 7r. f. of the statutes is repealed:

2 **SECTION 12.** 111.70 (4) (cm) 7t. of the statutes is created to read:

3 111.70 (4) (cm) 7t. 'Consideration of factors in arbitration decision.' No decision
4 made by an arbitrator under the arbitration procedures authorized by this
5 paragraph may take effect unless the arbitrator gives an accounting in writing of the
6 consideration of the factors specified in subds. 7. to 7r. in the decision.

7 **SECTION 13.** 111.70 (4) (m) (title) of the statutes is amended to read:

8 111.70 (4) (m) (title) *Prohibited subjects of bargaining; school districts.*

9 **SECTION 14.** 111.70 (4) (nm) of the statutes is created to read:

10 111.70 (4) (nm) *Prohibited subjects of bargaining; all municipal employers.* A
11 municipal employer is prohibited from bargaining collectively with respect to the
12 employer's decision to enter into contracts with persons who are not municipal
13 employees for the performance of services for the municipality, or the impact of any
14 such decision on the wages, hours, and conditions of employment of the municipal
15 employees who would otherwise perform those services.

16 **SECTION 15.** 111.77 (4) (a) of the statutes is amended to read:

17 111.77 (4) (a) *Form 1.* The Except as provided in sub. (4m), the arbitrator shall
18 have the power to determine all issues in dispute involving wages, hours and
19 conditions of employment.

20 **SECTION 16.** 111.77 (4) (b) of the statutes is amended to read:

21 111.77 (4) (b) *Form 2.* The commission shall appoint an investigator to
22 determine the nature of the impasse. The commission's investigator shall advise the
23 commission in writing, transmitting copies of such advice to the parties of each issue
24 which is known to be in dispute. Such advice shall also set forth the final offer of each
25 party as it is known to the investigator at the time that the investigation is closed.

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1 No party may include in its final offer any item that would require the retroactive
2 application of a salary adjustment for any period occurring before the date that the
3 arbitrator issues the arbitration decision. Neither party may amend its final offer
4 thereafter, except with the written agreement of the other party. The Except as
5 provided in sub. (4m), the arbitrator shall select the final offer of one of the parties
6 and shall issue an award incorporating that offer without modification.

7 **SECTION 17.** 111.77 (4m) of the statutes is created to read:

8 111.77 (4m) 1. No arbitration decision under sub. (4) (a) may include any item
9 requiring the retroactive application of a pay adjustment for any period occurring
10 before the date that the arbitrator issues the arbitration decision, except that if the
11 arbitrator awards a pay adjustment that is substantially similar to that included in
12 the final offer of the labor organization the arbitrator shall require the retroactive
13 application of the pay adjustment.

14 2. If the arbitrator adopts the final offer of the labor organization under sub.
15 (4) (b), the arbitrator shall also require the retroactive application of any salary
16 adjustment for the period covered under the collective bargaining agreement that
17 occurs before the date that the arbitrator issues the decision.

18 **SECTION 18.** 111.77 (6) of the statutes is repealed and recreated to read:

19 111.77 (6) (a) In making any decision under the arbitration procedures
20 authorized by this section, the arbitrator shall consider and shall give the greatest
21 weight to any state law or directive lawfully issued by a state legislative or
22 administrative officer, body or agency which places limitations on expenditures that
23 may be made or revenues that may be collected by a municipal employer.

24 (b) In making any decision under the arbitration procedures authorized by this
25 section, the arbitrator shall consider and shall give greater weight to economic

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1 conditions in the jurisdiction of the municipal employer and its financial ability to
2 meet the costs of any proposed settlement than to any of the factors specified in par.

3 (c). In considering the factor specified in this paragraph, the arbitrator shall
4 specifically consider the revenues available to the municipal employer without the
5 municipal employer having to increase its property tax rate to maintain essential
6 services.

7 (c) In making any decision under the arbitration procedures authorized by this
8 section, the arbitrator shall also give weight to the following factors:

9 1. The lawful authority of the municipal employer.

10 2. Stipulations of the parties.

11 3. The interests and welfare of the public.

12 4. Comparison of wages, hours, and conditions of employment of the municipal
13 employees involved in the arbitration proceedings with the wages, hours, and
14 conditions of employment of other employees performing similar services in the

15 ~~jurisdiction of the municipal employer~~ *same community*

16 5. The average consumer prices for goods and services, commonly known as the
17 cost of living.

18 6. The overall compensation presently received by the municipal employees,
19 including direct wage compensation, vacation, holidays and excused time, insurance
20 and pensions, medical and hospitalization benefits, the continuity and stability of
21 employment, and all other benefits received.

22 7. Changes in any of the foregoing circumstances during the pendency of the
23 arbitration proceedings.

24 8. Such other factors, not confined to the foregoing, which are normally or
25 traditionally taken into consideration in the determination of wages, hours, and

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1 conditions of employment through voluntary collective bargaining, mediation,
2 fact-finding, arbitration, or otherwise between the parties, in the public service or
3 in private employment.

4 (d) No decision made by an arbitrator under the arbitration procedures
5 authorized by this section may take effect unless the arbitrator gives an accounting
6 in writing of the consideration of the factors specified in pars. (a) to (c) in the decision.

7 **SECTION 19. Initial applicability.**

8 (1) This act first applies to collective bargaining agreements under subchapter
9 IV of chapter 111 for which a notice of commencement of contract negotiations has
10 been filed by either party under section 111.70 (4) (cm) 1. or 111.77 (1) of the statutes
11 on the effective date of this subsection.

12 (END)

Emery, Lynn

From: Solie, Denise
Sent: Monday, October 06, 2003 11:27 AM
To: LRB.Legal
Subject: Draft review: LRB 03-3196/5 Topic: Municipal Employment Relations Act

It has been requested by <Solie, Denise> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-3196/5 Topic: Municipal Employment Relations Act